



**STATE OF WASHINGTON
PUBLIC DISCLOSURE COMMISSION**

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**BEFORE THE PUBLIC DISCLOSURE COMMISSION
OF THE STATE OF WASHINGTON**

In the Matter of Enforcement Action
Against

Facebook, Inc. (3)

Respondent.

PDC Case 47572

Notice of Administrative
Charges

I. JURISDICTION

The Public Disclosure Commission (PDC) has jurisdiction over this proceeding pursuant to Chapter 42.17A RCW, the state campaign finance and disclosure laws; Chapter 34.05 RCW, the Administrative Procedure Act; and Title 390 WAC. These charges incorporate the Report of Investigation and all related exhibits by reference.

II. ALLEGATIONS

Staff alleges that Facebook, Inc. (Facebook) repeatedly violated RCW 42.17A.345 by failing to maintain documents and books of account open for public inspection regarding the information specifically set forth in WAC 390-18-050. These violations occurred for political advertisements placed on Facebook concerning four 2019 Seattle City Council campaigns, and one ballot measure campaign, as follows:

1. Ari Hoffman and Ari Hoffman for Seattle City Council
2. Ethan Hunter and Ethan Hunter 4 Seattle City Council
3. Kate Martin and Put Kate on the Council
4. Logan Bowers and Logan for Seattle
5. Seattle Council PTSA

III. FACTS

1. Facebook is an international online social media and social networking service company based in Menlo Park, California. Facebook sells advertising across its platforms, including political advertising.
2. On December 28, 2018, Facebook promulgated a policy of not offering political advertising in Washington state for state and local elections.
3. A complaint filed with the PDC by Eli Sanders alleged that on February 12, 2019, Mr. Sanders sent an email to two Facebook spokespeople and Facebook's Seattle attorney, in which he shared images of 25 Facebook political ads he had found targeting local Seattle elections since January 1, 2019. These ads related to four 2019 Seattle City Council campaigns, and one ballot measure campaign, as follows:
 1. Ari Hoffman and Ari Hoffman for Seattle City Council
 2. Ethan Hunter and Ethan Hunter 4 Seattle City Council
 3. Kate Martin and Put Kate on the Council
 4. Logan Bowers and Logan for Seattle
 5. Seattle Council PTSA
4. In the email sent by Mr. Sanders, he requested "all the information that Facebook is legally required to disclose about such advertising under Washington State law (RCW 42.17A.345), the Washington State Administrative Code (WAC 390-18-050), and the Seattle Municipal Code (Section 2.04.280)."
5. Although WAC 390-18-050 required Facebook to make available the requested information "within twenty-four hours" of each ad's original distribution, Mr. Sanders agreed to receive the information within a week's time.
6. Facebook did not provide Mr. Sanders with the required information, either directly, or by providing a link to its primary website where it posts information concerning political advertising.

7. On July 29, 2019, following a July 19, 2019 in-person meeting with PDC staff, Facebook disclosed to the PDC the information requested by Mr. Sanders. The information was disclosed five months after Mr. Sanders had requested to inspect it, and was not disclosed by Facebook to Mr. Sanders. Upon receipt, the PDC forwarded the information from Facebook to Mr. Sanders.
8. The records ultimately provided by Facebook to the PDC contained most, but not all, of the items required by WAC 390-18-050. The production included the cost of each individual version of an ad, but did not include who made the payment, when it was paid, and what method of payment was used.
9. The records ultimately provided by Facebook to the PDC included the major work components or tasks, as specified in WAC 390-18-050(6)(g), “(e.g., age, gender, race, location, etc.) of the audiences targeted and reached, to the extent such information is collected by the commercial advertiser as part of its regular course of business, and the total number of impressions generated by the advertisement or communication.” However, the demographic information provided to the PDC related to the audience reached, but not to the audience targeted.

IV. LAW

RCW 42.17A.005(11) states “Commercial Advertiser” means any person who sells the service of communicating messages or producing printed material for broadcast or distribution to the general public or segments of the general public whether through the use of newspapers, magazines, television and radio stations, billboard companies, direct mail advertising companies, printing companies, or otherwise.

RCW 42.17A.345 states: (1) Each commercial advertiser who has accepted or provided political advertising or electioneering communications during the election campaign shall maintain documents and books of account that shall be open for public inspection during normal business hours during the campaign and for a period of no less than three years after the date of the applicable election. The documents and books of account shall specify:

- (a) The names and addresses of persons from whom it accepted political advertising or electioneering communications;
- (b) The exact nature and extent of the services rendered; and
- (c) The total cost and the manner of payment for the services.

(2) At the request of the commission, each commercial advertiser required to comply with subsection (1) of this section shall deliver to the commission copies of the information that must be maintained and be open for public inspection pursuant to subsection (1) of this section.

WAC 390-18-050 states: (1) "Commercial advertiser" as that term is used in the act and these rules means any person, as defined in the act, including individuals and entities, that sells the service of communicating messages or producing material for broadcast or distribution to the general public or segments of the general public whether through brochures, fliers, newspapers, magazines, television, radio, billboard, direct mail advertising, printing, paid internet or digital communications, or any other means of mass communications used for the purpose of appealing, directly or indirectly for votes or for financial or other support in any election campaign.

(2) Any person that hosts political advertising or electioneering communications on a digital communication platform or other media is not required to maintain records on such advertising or communications if it has been purchased directly through another commercial advertiser, however the commercial advertiser that directly sells the advertising or communications to the original purchaser must maintain the information as required in this section.

(3) Pursuant to RCW 42.17A.345, each commercial advertiser who has accepted or provided political advertising, or electioneering communications, as defined in RCW 42.17A.005, must maintain current books of account and related materials as required by this section. Such information must be available for public inspection by any person, without reference to, or permission from, the PDC, and provided:

- (a) In person during normal business hours; and
- (b) If requested electronically, in machine readable format and structured in a way that enables the data to be fully discoverable and useable by the end user:
 - (i) By digital transmission, such as email, promptly upon request; or
 - (ii) By online publication in one of the following formats:
 - (A) On the advertiser's primary web site;
 - (B) On a web site controlled by the advertiser, created for purposes of publishing the information required by this section, if a link is prominently displayed on the advertiser's primary web site directing users to the web site on which the information is provided; or
 - (C) On the PDC's open access platform, if one is provided by the PDC for such purpose.
- (4) Information regarding political advertising or electioneering communications must be made available within twenty-four hours of the time when the advertisement or communication initially has been publicly distributed or broadcast, and within twenty-four hours of any update or change to such information. Such records must be maintained for a period of no less than three years after the date of the applicable election.
- (5) The information and books of account that must be maintained open for public inspection pursuant to RCW 42.17A.345 are:
 - (a) The name of the candidate or ballot measure supported or opposed or the name of the candidate otherwise identified, and whether the advertising or communication supports or opposes the candidate or ballot measure;
 - (b) The name and address of the sponsoring person or persons actually paying for the advertising or electioneering communication, including the federal employee identification number, or other verifiable identification, if any, of an entity, so that the public can know who

paid for the advertising or communication, without having to locate and identify any affiliated entities;

(c) The total cost of the advertising or electioneering communication, or initial cost estimate if the total cost is not available upon initial distribution or broadcast, how much of that amount has been paid, as updated, who made the payment, when it was paid, and what method of payment was used; and

(d) Date(s) the commercial advertiser rendered service.

(6) In addition to subsection (5) of this section and pursuant to RCW 42.17A.345, the materials and books of account open for public inspection must include the political advertisement or electioneering communication itself, and a description of the major work components or tasks, as specified in (a) through (g) of this subsection, that were required to provide the advertising or communications services.

(a) For printers, reproducers and other persons who provide commercial duplicating services: Quantity of items, item description, design, layout, typesetting, photography, printing, silk screening, binding.

(b) For mailing services: Quantity of items mailed, binding, stuffing, labeling, list or directory services, postage or delivery.

(c) For broadcast media: Air time and number of spot advertisements. If the broadcaster provides additional services such as copy writing, talent, production, and tape reproduction, some type of record or notation evidencing the additional service must be available.

(d) For billboard or sign companies: Number and location of signs, design, printing and art work, erection/removal costs.

(e) For specialty or novelty commercial advertisers: Quantity of items provided, silk screening, design, printing and art work.

(f) For newspapers and other print media: Amount of advertising space and dates of publication. If the advertiser provides additional services such as design or layout, some type of record evidencing such additional services must be available.

(g) For digital communication platforms: A description of the demographic information (e.g., age, gender, race, location, etc.) of the audiences targeted and reached, to the extent such information is collected by the commercial advertiser as part of its regular course of business, and the total number of impressions generated by the advertisement or communication.

(7) At the request of the PDC, each commercial advertiser required to comply with this section shall provide to the PDC copies of the information described above.

Respectfully submitted this 4th day of October 2019.



Peter Lavalley
Executive Director